

branding, or other forms of marking or tracking requirements on unprocessed timber if—

- (i) the benefits of the requirements outweigh the cost of complying with the requirements; and
- (ii) the Secretary determines that, without the requirements, it is likely that the unprocessed timber—

- (I) would be exported in violation of sections 620 to 620j of this title; or

- (II) if the unprocessed timber originating from Federal lands, would be substituted for unprocessed timber originating from private lands west of the 100th Meridian in the contiguous 48 States in violation of sections 620 to 620j of this title.

(B) Minimum size

The Secretary concerned shall not impose painting, branding, or other forms of marking or tracking requirements on—

- (i) the face of a log that is less than 7 inches in diameter; or
- (ii) unprocessed timber that is less than 8 feet in length or less than $\frac{1}{3}$ sound wood.

(C) Waivers

(i) In general

The Secretary concerned may waive log painting and branding requirements—

- (I) for a geographic area, if the Secretary determines that the risk of the unprocessed timber being exported from the area or used in substitution is low;

- (II) with respect to unprocessed timber originating from private lands located within an approved sourcing area for a person who certifies that the timber will be processed at a specific domestic processing facility to the extent that the processing does occur; or

- (III) as part of a log yard agreement that is consistent with the purposes of the export and substitution restrictions imposed under sections 620 to 620j of this title.

(ii) Review and termination of waivers

A waiver granted under clause (i)—

- (I) shall, to the maximum extent practicable, be reviewed once a year; and

- (II) shall remain effective until terminated by the Secretary.

(D) Factors

In making a determination under this paragraph, the Secretary concerned shall consider—

- (i) the risk of unprocessed timber of that species, grade, and size being exported or used in substitution;
- (ii) the location of the unprocessed timber and the effect of the location on its being exported or used in substitution;
- (iii) the history of the person involved with respect to compliance with log painting and branding requirements; and
- (iv) any other factor that is relevant to determining the likelihood of the unprocessed timber being exported or used in substitution.

(5) Reporting

(A) In general

Subject to subparagraph (B), the Secretary concerned shall issue regulations that impose reasonable documentation and reporting requirements if the benefits of the requirements outweigh the cost of complying with the requirements.

(B) Waivers

(i) In general

The Secretary concerned may waive documentation and reporting requirements for a person if—

- (I) an audit of the records of the facility of the person reveals substantial compliance with all notice, reporting, painting, and branding requirements during the preceding year; or

- (II) the person transferring the unprocessed timber and the person processing the unprocessed timber enter into an advance agreement with the Secretary concerned regarding the disposition of the unprocessed timber by domestic processing.

(ii) Review and termination of waivers

A waiver granted under clause (i)—

- (I) shall, to the maximum extent practicable, be reviewed once a year; and

- (II) shall remain effective until terminated by the Secretary.

(b) Review

The Secretaries of Agriculture and Interior shall, in consultation, review the definition of unprocessed timber under section 620e(7) of this title for purposes of sections 620 to 620j of this title and, not later than 18 months after August 20, 1990, submit to the Congress any recommendations they have with respect to such definition. Specifically, the Secretaries shall report on the effects of maintaining 2 size standards under section 620e(B)(ii)¹ and (iii) of this title.

(Pub. L. 101-382, title IV, § 495, Aug. 20, 1990, 104 Stat. 725; Pub. L. 105-83, title VI, § 605, Nov. 14, 1997, 111 Stat. 1622.)

AMENDMENTS

1997—Subsec. (a). Pub. L. 105-83 redesignated first two sentences as pars. (1) and (2), respectively, and inserted headings, and substituted pars. (3) to (5) for last sentence which read as follows: “Except as otherwise provided in sections 620 to 620j of this title, regulations and guidelines under this subsection shall be issued not later than 9 months after August 20, 1990.”

§ 620g. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out sections 620 to 620j of this title.

(Pub. L. 101-382, title IV, § 496, Aug. 20, 1990, 104 Stat. 725.)

§ 620h. Savings provision

Nothing in sections 620 to 620j of this title, or regulations issued under sections 620 to 620j of

¹ So in original. Probably should be section “620e(7)(B)(ii)”.